

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

556D0395

SENATE BILL NO. 62

Introduced by: Senators Albers, Madden, and Vitter and Representatives Hennies, Apa, and Engbrecht

1 FOR AN ACT ENTITLED, An Act to provide that sexual penetration with a minor stepchild
2 is rape in the third degree.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-22-1 be amended to read as follows:

5 22-22-1. Rape is an act of sexual penetration accomplished with any person under any of the
6 following circumstances:

7 (1) If the victim is less than ten years of age; or

8 (2) Through the use of force, coercion, or threats of immediate and great bodily harm
9 against the victim or other persons within the victim's presence, accompanied by
10 apparent power of execution; or

11 (3) If the victim is incapable, because of physical or mental incapacity, of giving consent
12 to such act; or

13 (4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or
14 anesthetic agent or hypnosis; or

15 (5) If the victim is ten years of age, but less than sixteen years of age, and the perpetrator
16 is at least three years older than the victim; or

1 (6) If persons who are not legally married and who are within degrees of consanguinity
2 within which marriages are by the laws of this state declared void pursuant to
3 § 25-1-6, which is also defined as incest; or

4 (7) If the victim is ten years of age but less than eighteen years of age and is the child of
5 a spouse or former spouse of the perpetrator.

6 A violation of subdivision (1) of this section is rape in the first degree, which is a Class 1
7 felony. A violation of subdivision (2), (3), or (4) of this section is rape in the second degree,
8 which is a Class 2 felony. A violation of subdivision (5) ~~or~~, (6), or (7) of this section is rape in
9 the third degree, which is a Class 3 felony. Notwithstanding § 23A-42-2 a charge brought
10 pursuant to this section may be commenced at any time prior to the time the victim becomes age
11 twenty-five or within seven years of the commission of the crime, whichever is longer.